

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

SETH BOONE TEMPLES,

Plaintiff,

VS.

SHIRLEY LEWIS, Nurse TARA, Sgt.  
McWATERS, Sgt. McKENNON, and Sgt.  
COFIELD

Defendants.

CIVIL ACTION FILE  
NO. 704-CV-73 (HL)

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AMENDED RECOMMENDATION IN VIEW OF OBJECTION TO RECOMMENDATION  
OF JUNE 9, 2006

On June 9, 2006, the undersigned recommended (doc. # 39) that the motions to dismiss the complaint filed by defendants McWaters, McKennon and Cofield through their counsel (doc. # 29) as well as the motion to dismiss the complaint filed by defendant Lewis through her counsel (doc. # 31) be denied.<sup>1</sup> Defendants argued that dismissal was appropriate because although the complaint was filed prior to the running of the statute of limitations, the defendants were not served personally until after the statute of limitations had expired. Noting that none of these defendants had acknowledged service of the complaint by first class mail, requiring that the United States Marshal personally serve the defendants, the undersigned recommended that the motion to dismiss the complaint be denied.

Counsel for defendant McWaters has timely filed an objection to that recommendation pointing out to the court the fact that he has never been served as he is no longer employed at the

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<sup>1</sup>Nurse Tara was not a movant as she has evidently not been served with the complaint as she is no longer employed at the Lowndes County Jail (doc. # 25).

Lowndes County Jail. A review of the electronic docket in this matter leads to the conclusion that counsel is correct. Further, in an earlier recommendation that a motion to dismiss be denied the court acknowledged that the file reflected that defendant McWaters was no longer employed at the Lowndes County Jail and had not been served. Plaintiff was instructed too provide a good service address for this defendant within thirty days, failing which the undersigned would recommend dismissal as to this defendant (doc. #20, p. 3). Plaintiff has not provided a service address for defendant McWaters.

In view of the foregoing, that portion of the June 9, 2006, recommendation herein pertaining to defendant McWaters is rescinded. The undersigned now recommends that the motion to dismiss the complaint be granted as to this defendant.

Review of the electronic docket herein reveals that the defendant designated as Nurse Tara has never been served as she is no longer employed at the Lowndes County Jail (doc # 25). If plaintiff wants this defendant served with the complaint he must provide a good service address within thirty (30) days of the date of this recommendation failing which the undersigned will recommend that this defendant be dismissed as well.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may file written objections to this recommendation with the Honorable Hugh Lawson, United States District Judge, WITHIN TEN (10) DAYS of receipt thereof.

**SO RECOMMENDED**, this 20<sup>th</sup> day of June 2006.

/s/ **Richard L. Hodge**  
RICHARD L. HODGE  
UNITED STATES MAGISTRATE JUDGE

